

Court Forms Info - Re: Request for SCAO-Approved Form for Specific Parenting Time

From: Court Forms Info
To: Dan Diebolt
Date: 12/11/2006 4:39:41 PM
Subject: Re: Request for SCAO-Approved Form for Specific Parenting Time

Thank you for your suggestions. They will be placed on file for discussion by the Friend of the Court Section of the Michigan Court Forms Committee meeting in March.

>>> Dan Diebolt <dandiebolt@yahoo.com> 12/8/2006 3:22 PM >>>
 To: Carl L. Gromek, State Court Administer

I submit this request pursuant to your letter of December 8, 2006, soliciting input from interested parties on the development of new court forms. I request that the State Court Administrator develop and approve both a motion and order that would allow a parent to a custody proceeding to request specific parenting time pursuant to MCL 722.27a(7):

Parenting time shall be granted in specific terms if requested by either party at any time.

I request that the proposed motion form include a request to adopt the specific terms of parenting time submitted by the movant as an exhibit to the motion or in the alternative a request for findings of fact for the denial of parenting time consistent with provisions of MCL 722.27a(2). I further request that the proposed order form provide for the recital of the judge's finds of fact as well as an indication the evidence upon which the denial is based meets the standard of proof of clear and convincing evidence. To kick start the development of the motion and order forms, I attached to the bottom of this email draft language and comments as a starting point.

Sincerely,

Dan Diebolt
 4684 Ash Court
 Ypsilanti, MI 48197

Proposed Motion

- 1) Pursuant to [MCL 722.27a\(7\)](#) Defendant requests specific parenting time.
- 2) Requests for specific parenting time terms must be considered by the court regardless of the timing of the request. Once defendant moves for specific parenting time, the trial court errs, as a matter of law, in refusing to consider specific terms for parenting time in a frequency, duration, and type reasonably calculated to promote a strong relationship

between the child and the parent granted parenting time. [Pickering v Pickering \(COA 253342 2005\)](#).

3) A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health. [MCL 722.27a\(2\)](#)

4) Wherefore, Defendant respectfully requests specific parenting time to be established consistent with the terms of the prior order. In the alternative, Defendant requests findings of fact under the clear and convincing standard, that the granting of parenting time would endanger the child's physical, mental, or emotional health.

Notes:

1) MCL 722.27a(7) provides that a request for specific terms regarding parenting time can be made "at any time". There is no need for a showing of change of circumstances, good cause, or any criteria or threshold. In the Pickering case, the request for parenting time was made through an oral motion which the court of appeals found to be a sufficient request.

2) The standard of evidence used in applying MCL 722.27a(2) is clear and convincing evidence (not preponderance of evidence)

3) Ask your attorney about this because they know these things.

Citations:

<http://www.legislature.mi.gov/mileg.aspx?page=getObject&objectName=mcl-722-27a>

http://courtofappeals.mijud.net/documents/OPINIONS/FINAL/COA/20050830_C253342_46_15

Everyone is raving about [the all-new Yahoo! Mail beta](#).